

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE SB 96 AND SB 97

Call to Order: By **SENATOR DON HARGROVE**, on April 12, 1999 at
8:35 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove
Sen. Lorents Grosfield
Sen. Barry Stang
Rep. Rod Bitney
Rep. Mark Noennig
Rep. Ron Erickson (SB 96)
Rep. Carolyn Squires (SB 97)

Members Excused: None.

Members Absent: None.

Staff Present: Phoebe Olson, Secretary
Mary Vandembosch ,Legislative Services Division

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Conference Committee on SB 96 and SB 97

SB 96

SENATOR HARGROVE, opened the meeting and asked **SENATOR STANG** to give an explanation of what needed to be done.

SENATOR STANG, explained that SB 96 was a product of two years of study by the Environmental Quality Council Growth Committee. He said the purpose of the bill was to make it easier to override zoning protests. He said the bill was amended in Senate Committee to make it 3/5 of the members voting. He thought the House change to 2/3 would make everyone fairly happy. He said the other issue was the number of people needed for an override. He hoped they could deal with that amendment by moving it back to 30%. He maintained those were the only House amendments he wanted to discuss.

SENATOR HARGROVE, asked about the amendment that dealt with voting. He wondered if there was anyone on the council who didn't vote.

REPRESENTATIVE NOENNIG, said he thought the amendment looked at who was present at the council and who was not.

SENATOR STANG, agreed.

REPRESENTATIVE NOENNIG, said know it was just a question of the total members of the city council being present and voting or not being present.

SENATOR STANG, thought it was a decent compromise, and didn't have a problem with it.

SENATOR HARGROVE, mentioned that there were people there to answer questions.

REPRESENTATIVE BITNEY, asked for clarification on line 16 where it said "all the members".

SENATOR STANG, said the problem was no one seemed to know. He said all the councils he had talked to, do not allow proxies. He said that 2/3 of the voting members, meant 2/3 of those present and voting. He thought the way the House has worded it took care of the concerns.

SENATOR HARGROVE, explained things to **SENATOR GROSFIELD**.

REPRESENTATIVE BITNEY, asked if the Realtors had any concerns regarding the amendments.

Steve Snezik, conveyed he liked the amendments.

REPRESENTATIVE ERICKSON, said he thought 30% might work but had heard of a specific example that gave him pause about it. He wondered if Kirwin Jensen could talk about that.

Kirwin Jensen, Planning Director, Billings, gave the committee a handout that explained his concerns. **EXHIBIT(ccs79sb0097a01)**

SENATOR STANG, said Mr. Jensen's examples included 20% and 40% but did not include a 40% example. It appeared to him if you reduced the 40% example you were still looking at the same property owners as under the 20% example.

Kirwin Jensen, said it would vary from example to example.

REPRESENTATIVE NOENNIG, said in looking at the examples, the way he understood it under current law, a 5% protest was a valid protest. He asked if the sponsors intention was to raise the bar as far as the bill had.

SENATOR STANG, said he somewhat agreed with the analysis. He remarked under current law that there were differences to how the quadrants were drawn.

REPRESENTATIVE NOENNIG, said he thought they had gone a long ways with the 40%. He wondered if that really was the intention.

SENATOR GROSFIELD, said this was a Missoula verses Billings issue. He said there was a lot of dynamics involved. He deferred to Mary Vandenbosch.

Mary Vandenbosch, said the EQC heard testimony that with a 20% figure one property owner could protest a change and with a 3/4 vote to override that protest they heard testimony that it was difficult to change zoning regulations without a barrier to proposals to promote in fill developments. She said they did not get into detail what the protest area would entail.

SENATOR GROSFIELD, said the problem was that 3/4 of a big board would make it almost have to be a unanimous vote.

SENATOR HARGROVE, considered EQC one of the more deliberative groups and he didn't like to overturn anything they did. He asked what the intentions of the committee were.

REPRESENTATIVE NOENNIG, said it seemed to him like amendment 1 and 2 had to balance with the percentage on amendment 3.

Motion: SEN. STANG moved AMENDMENT NUMBER THREE BE CHANGED FROM 20% TO 30%.

REPRESENTATIVE NOENNIG, said he wanted to make sure that it was necessary to raise the bar that high.

SENATOR STANG, said he thought it was the EQC's intention to make this somewhat attainable, but something that couldn't be done too easily. He thought by moving to 30% you have done that.

REPRESENTATIVE ERICKSON, wondered if 25% would be a friendly amendment. He thought it would go specifically to the example in Billings.

SENATOR STANG, said he would rather have 30% but 25% would be fine.

Motion: REPRESENTATIVE ERICKSON made a substitute motion that AMENDMENT 3 GO FROM 20% TO 25%.

REPRESENTATIVE NOENNIG, asked what Mr. Jensen thought about going to 25%.

Kirwin Jensen, said part of that would be public right-of-way in many cases. He said it could be possible that someone might not own 25% of the property in the area because of the right-of-way.

REPRESENTATIVE NOENNIG, asked what his conclusion was then.

Kirwin Jensen, said he felt that 20% was the fairest number.

SENATOR STANG, said it appeared that 25% would be better than 20% because of the right-of-way. He said the city of Missoula would rather have 40%. He thought that 25% was a good compromise.

Vote: Motion carried unanimously.

*{Tape : 1; Side : A; Approx. Time Counter : 905; Comments :
Committee on SB 97}*

SB 97

SENATOR STANG, explained he wanted to strip the House amendments. He said the reason he did not like this was because in current law you did not have to have a vote on a master plan, and the House put a mandatory vote in. He said this bill was trying to get people involved in the front of the process.

SENATOR HARGROVE, asked if any of the House members were involved in the amendment.

REPRESENTATIVE NOENNIG, said it was put on the bill on the House floor.

SENATOR HARGROVE, said it looked like there was the possibility they did not understand what the amendment did.

REPRESENTATIVE NOENNIG, said that they did intend to make the vote mandatory. He explained the arguments that were made in the House, and that they were concerned mostly with property rights. He thought there was a provision that allowed a referendum under certain circumstances.

Ann Hedges, Environmental Information Center, said the referendum started on page 11, line 30, and went on to the next page.

REPRESENTATIVE NOENNIG, added that there was some discussion that you shouldn't vote for the bill even with the amendment, because it would be stripped off in the Senate.

SENATOR HARGROVE, said they were forcing a decision, and they might be putting themselves more at risk by insisting there be a vote.

REPRESENTATIVE SQUIRES, said she wanted to maintain the amendments because of problems in her area and she felt it was the best way to serve her constituency.

SENATOR HARGROVE, said that was what we were all here for. He wondered what would happen in the House if the amendments were rejected.

SENATOR STANG, said the people who worked hard to put the bill together and who had reached a consensus with the Senate amendments would rather see the bill die than have it pass with the House amendments. He thought that would be very unfortunate.

REPRESENTATIVE NOENNIG, said the amendment was really the bill and in his view it should be stripped and submitted to the House again to see if it could live.

SENATOR GROSFIELD, said he agreed with **SENATOR STANG**.

REPRESENTATIVE SQUIRES, said she totally respected the opinions that were given, but did make some remarks in defense of the people who were coming in at the end of the process.

Motion: SEN. STANG moved THE HOUSE AMENDMENTS BE STRIPPED OFF THE BILL.

SENATOR HARGROVE, said the public interest was still preserved in his opinion. He thought that they had to start giving discretion at the local level. He took the position that some of the people did not totally understand the issue.

REPRESENTATIVE NOENNIG, said he was going to support the motion. He hoped he didn't mis-state the intentions of the House, or to be overly critical.

SENATOR GROSFIELD, commented that there was criteria that required local government to look differently about how the develop plans on page 10. He thought that would result in a lot more public involvement.

Vote: Motion carried 5-1. Representative Squires voted no.

ADJOURNMENT

Adjournment: 9:00 A.M.

SEN. DON HARGROVE, Chairman

PHOEBE OLSON, Secretary

BC/

EXHIBIT (ccs79sb0097aad)